IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1938 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 11-12-2003 in W.P.No.11077 of 1999 on the file of the High Court.)

Between:

1 Union of India, rep., by its Secretary,
Ministry of Home Affairs, New Delhi.
2 The Director General, CISF, Ministry of Home Affairs,
New Delhi.
3 The Deputy Inspector General, CISF, B.C.C.L., Unit,
Koyalanagar, Dhanbad. Bihar
4 The Commandant, CISF, BCCL Unit, Jharia,
Jealgora, (Dhanbad Dist.,), Bihar.

..... APPELLANTS

AND

B.V.Ramana Rao, s/o Bhoga Raju,
r/o Pedagonnur, Mudinepalli Mandal, Krishna District.

.....RESPONDENT

Counsel for the Appellant: MS.P.SARADA

Counsel for the Respondent.: MR.D.RAMALINGA SWAMY

The Court made the following :

JUDGMENT : (Per Honourable Sri Justice S.Ananda Reddy)

This Writ Appeal is filed by the respondents in the Writ Petition aggrieved by the order of the learned single Judge directing the respondents to reinstate the writ petitioner into service with all consequential benefits.

At request of the learned counsel on either side, the Writ Appeal is heard and disposed of finally.

The writ petitioner was ordered to compulsorily retire from service as a disciplinary measure pursuant to the orders passed by the 4th respondent who is the Disciplinary Authority. That order was confirmed by the appellate authority, which was assailed in the Writ Petition.

In the Writ Petition, the learned single Judge found that the Enquiry Officer did not consider the evidence of D.Ws.1 to 3 who were admittedly present at the check post. On that basis the findings recorded by the Enquiry Officer, pursuant to which an order was passed by the Disciplinary Authority compulsorily retiring the petitioner from service which was confirmed by the appellate authority was set aside. Aggrieved by the same, the present writ appeal is preferred by the respondents in the writ petition.

The stand of the appellants in the present appeal is that when it is found by this Court that certain material evidence has not been considered by the Disciplinary authority, the matter ought to have been remitted back for fresh reconsideration after giving an opportunity to both the parties and to pass orders in accordance with law. Instead of doing so, the learned single Judge, set aside the impugned order and ordered reinstatement.

The learned counsel for the writ petitioner though sought to support the order of the learned single Judge, we are not impressed upon the finding recorded by the learned single Judge, especially without going into the merits of the evidence which was stated to have not been considered by the Enquiry Officer. Basing on the Departmental Enquiry, an order of compulsory retirement was passed by the Disciplinary Authority, which was confirmed even by the appellate authority. The learned single Judge has come to a conclusion that the Disciplinary Authority or even the Enquiry Officer did not consider certain amount of evidence. Therefore, the

matter ought to have been remanded instead of ordering reinstatement, on such omissions.

Under the above circumstances, the order of the learned single Judge is set aside and the matter is restored to the Disciplinary Authority for fresh consideration including the evidence of D.Ws. I to 3 which was said to have not been considered by the enquiry officer, as observed by the learned single Judge. The Disciplinary Authority is directed to pass orders after considering the material available on record, afresh, and after giving an opportunity to the writ petitioner within a period of three months from the date of receipt of a copy of this order.

Writ Appeal is accordingly, allowed. No costs.

(T.MEENA KUMARI, J)

(S.ANANDA REDDY, J)

Dated 6th December, 2004

Dvs/Kvsn

To

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